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7  
8 Honorable Chief Judge Whitman L. Holt  
9 Chapter 11

10 In re:  
11 MCCARY MEATS, LLC,

12 Debtor. Case No.: 20-01469-WLH11

13 **EX PARTE MOTION FOR 2004 EXAM**

14 Creditor Bell Veal LLC (“BV”) respectfully moves the court for the entry of an order  
15 authorizing BV to issue a *subpoena duces tecum* to Debtor McCary Meats, LLC (“Debtor”)  
16 pursuant to Bankruptcy Rule 2004 requiring the production of certain documents from Debtor and  
17 directing Debtor designate a knowledgeable representative to appear for an examination under  
18 oath at a mutually agreeable time and medium for Debtor and BV. This Motion is supported by  
19 the records and files herein, and the subjoined certification of counsel. A copy of the proposed  
20 draft subpoena to be issued if this motion is granted is attached hereto as **Exhibit A**.

21 DATED: September 10, 2021.

22 **SCHWEET LINDE & COULSON, PLLC**

23  
24 /s/Michael M. Sperry  
25 Michael M. Sperry, WSBA #43760  
26 Attorneys for Bell Veal LLC

EX PARTE MOTION FOR 2004 EXAM - 1

**SCHWEET LINDE & COULSON, PLLC**

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### **Certification of Counsel**

I, Michael M. Sperry, declare and state as follows:

1. I am one of the attorneys representing BV, a creditor in this case.

2. Debtor has defaulted under its confirmed plan by failing to provide financial reporting required under Debtor's confirmed plan for Class 3 Creditors despite multiple requests for said reporting.

3. Debtor has had over a month since the initial request was made, was provided an initial extension of time by agreement, and still has not produced the required reporting regarding payments to Class 3 claimants.

4. Debtor has had issues with payment on BV's Class 2 claim that resulted in BV seeking the appointment of a liquidating agent pursuant to Debtor's confirmed plan.

5. Debtor has failed to file post-confirmation disbursement reports required under Local Bankruptcy Rule 3021-1.

6. Debtor was cautioned by this Court at the hearing on BV's motion to appoint liquidating agent that the Debtor needed to comply with all reporting requirements applicable under the confirmed plan and local rules.

7. Given the issues with Debtor maintaining payments on BV's Class 2 claim, Debtors refusal to provide accounting properly demanded by BV as a Class 3 claimant despite having ample time to do so, and Debtor's failure to file post-confirmation reports in accordance with local rules BV's only option to procure the information requested is through the issuance of a subpoena.

8. Debtor has been unresponsive to multiple follow up communications regarding the Class 3 reporting, so BV is proceeding with this request without consulting with Debtor regarding the time and place for the examination. Additionally, an examination may not be required after

1 receipt of the documents to be produced, and counsel for BV will accommodate reasonable  
2 requests from Debtor as to the time and place of any examination that is necessary to occur.

3 **I certify under penalty of perjury under the laws of the State of Washington that the**  
4 **foregoing is true and correct.**

5 SIGNED and DATED this 10<sup>th</sup> day of September 2021, at Kent, Washington.

6 /s/Michael M. Sperry  
7 Michael M. Sperry, WSBA #43760